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By Region 3

- To Ken Ward of Charleston Gazette

Q: Why doesn't/didn't the Freedom Industries spill fall under the CERCLA and the unified command structure? Whose decision was that? EPA? The state? Under what legal authority is EPA providing the technical assistance you mention?

RESPONSE: When responding to environmental emergencies, the size and the type of incident, as well as the jurisdictions of responding parties are taken into account when considering the most appropriate structure for the response. In North Carolina, the North Carolina Department of Environment and Natural Resources (NCDENR) requested the U.S. Environmental Protection Agency to respond and provide technical assistance to the State. EPA responders met with representatives of NCDENR and the Virginia Department of Environmental Quality (VADEQ) and discussed the appropriate command and management structure for the emergency response. NCDENR and VADEQ requested that EPA assist in developing a full Incident Management Team and enter into a Unified Command Structure because the spill impacted two states and involved multiple federal, state, and local agencies. The Unified Command consists of EPA, NCDENR, VADEQ, U.S. Fish and Wildlife Service, and Duke Energy. At the request of NCDENR, EPA at this time is providing technical assistance and oversight assistance during the emergency response, including water sampling and data review and management. EPA is also, as part of the Unified Command, participating in community briefings with appropriate response partners in North Carolina and Virginia to ensure that the public is informed about the status of the response, as well as the roles and responsibilities of the various responders.

In West Virginia, the West Virginia Department of Environmental Protection requested EPA's technical assistance in controlling and cleaning up the source of the chemical spill in the Elk River. It was a mutual determination by the response partners -- WVDEP, EPA, Freedom Industries as the responsible party, and contractors -- that the Incident Command structure would be most appropriate for managing the response, with the state of West Virginia as the lead.

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